



January 30, 2015

SENATE BILL No. 514

DIGEST OF SB 514 (Updated January 29, 2015 7:39 am - DI 87)

Citations Affected: IC 3-13; IC 5-9; IC 36-5.

Synopsis: Vacancy in office of clerk-treasurer. Provides that if a town legislative body is unable to fill a vacancy in the office of town clerk-treasurer, a town legislative body member may serve ex officio as the town clerk-treasurer for the remainder of the clerk-treasurer's term. Provides that the town legislative body member may not receive additional compensation for serving as the ex officio town clerk-treasurer. Provides that the duties assumed by the town legislative body member are duties of the office of town legislative body member and do not constitute a second lucrative office. Allows the town legislative body to enter into an interlocal agreement with another town clerk-treasurer to assist the town legislative body member in performing the clerk-treasurer's duties for the remainder of the clerk-treasurer's term. Provides that if an interlocal agreement cannot be reached, the town legislative body may contract with a certified public accountant to assist the town legislative body member in performing the duties of the clerk-treasurer for the remainder of the term of the clerk-treasurer.

Effective: July 1, 2015.

Charbonneau

January 14, 2015, read first time and referred to Committee on Local Government.
January 29, 2015, reported favorably — Do Pass.

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January 30, 2015

First Regular Session 119th General Assembly (2015)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

SENATE BILL No. 514

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 3-13-9-3, AS AMENDED BY P.L.119-2005,
2 SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2015]: Sec. 3. (a) This section applies to a vacancy in the
4 office of town clerk-treasurer:

5 (1) not covered by section 1 of this chapter; or

6 (2) covered by section 1 of this chapter, but existing after the
7 thirtieth day after:

8 (A) the vacancy occurs, if IC 5-8-6 does not apply; or

9 (B) the president of the town council receives the notice
10 required under IC 5-8-6.

11 (b) A vacancy shall be filled by the town council at a regular or
12 special meeting.

13 (c) The president of the town council shall give notice of the
14 meeting. Except as provided in subsections (e) and (f), the meeting
15 shall be held:

16 (1) not later than thirty (30) days after the vacancy occurs if the

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vacancy is not covered by section 1 of this chapter; or
 (2) not later than sixty (60) days after the vacancy occurs if the
 vacancy is covered by section 1 of this chapter and exists for more
 than thirty (30) days.

(d) The notice must:

- (1) be in writing;
- (2) state the purpose of the meeting;
- (3) state the date, time, and place of the meeting; and
- (4) be sent by first class mail to each council member at least ten
 (10) days before the meeting.

(e) If a vacancy:

- (1) is not covered by section 1 of this chapter; and
- (2) exists because of the death of the town clerk-treasurer;

the council shall meet and select an individual to fill the vacancy not
 later than thirty (30) days after the president of the town council
 receives notice of the death under IC 5-8-6. The president of the town
 council may not give the notice required by subsection (c) until the
 president of the town council receives notice of the death under
 IC 5-8-6.

(f) If a vacancy:

- (1) is covered by section 1 of this chapter;
- (2) exists because of the death of the town clerk-treasurer; and
- (3) exists for more than thirty (30) days;

the council shall meet and select an individual to fill the vacancy not
 later than sixty (60) days after the president of the town council
 receives notice of the death under IC 5-8-6. The president of the town
 council may not give the notice required by subsection (c) until the
 president of the town council receives notice of the death under
 IC 5-8-6.

**(g) If a town council is unable to select an individual to fill a
 vacancy in the office by complying with this section, a member of
 the town council may assume the duties of the town clerk-treasurer
 under IC 36-5-6-9.**

SECTION 2. IC 5-9-4-8, AS AMENDED BY P.L.2-2014,
 SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 JULY 1, 2015]: Sec. 8. (a) Except as provided in subsection (b) **and**
IC 36-5-6-9, during the officeholder's leave of absence, the
 officeholder's office must be filled by a temporary appointment made
 under:

- (1) IC 3-13-4;
- (2) IC 3-13-5;
- (3) IC 3-13-6;



- 1 (4) IC 3-13-7;
- 2 (5) IC 3-13-8;
- 3 (6) IC 3-13-9;
- 4 (7) IC 3-13-10;
- 5 (8) IC 3-13-11;
- 6 (9) IC 20-23-4;
- 7 (10) IC 20-26;
- 8 (11) IC 20-23-12;
- 9 (12) IC 20-23-14;
- 10 (13) IC 20-23-15;
- 11 (14) IC 20-23-17;
- 12 (15) IC 20-23-17.2;
- 13 (16) IC 20-25-3;
- 14 (17) IC 20-25-4; or
- 15 (18) IC 20-25-5;
- 16 in the same manner as a vacancy created by a resignation is filled.
- 17 (b) For an officeholder who:
- 18 (1) is:
- 19 (A) a justice of the supreme court, a judge of the court of
- 20 appeals, or a judge of the tax court; or
- 21 (B) a judge of a circuit, city, probate, or superior court; and
- 22 (2) is taking a leave of absence under this chapter;
- 23 the supreme court shall appoint a judge pro tempore to fill the
- 24 officeholder's office in accordance with the court's rules and
- 25 procedures.
- 26 (c) The person selected or appointed under subsection (a) or (b)
- 27 serves until the earlier of:
- 28 (1) the date the officeholder's leave of absence ends as provided
- 29 in section 10 of this chapter; or
- 30 (2) the officeholder's term of office expires.
- 31 (d) The person selected or appointed to an office under subsection
- 32 (a) or (b):
- 33 (1) assumes all the rights and duties of; and
- 34 (2) is entitled to the compensation established for;
- 35 the office for the period of the temporary appointment.
- 36 SECTION 3. IC 36-5-6-9 IS ADDED TO THE INDIANA CODE
- 37 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
- 38 1, 2015]: **Sec. 9. (a) This section applies if an office of town**
- 39 **clerk-treasurer is vacant and the town legislative body is unable to**
- 40 **fill the office under IC 3-13-9-3.**
- 41 **(b) The town legislative body may select a town legislative body**
- 42 **member, who shall assume the duties of the office of town**



1 clerk-treasurer. For purposes of Article 2, Section 9 of the
2 Constitution of the State of Indiana and Indiana law, if a town
3 legislative body member serves as the ex officio town
4 clerk-treasurer, the duties assumed by the town legislative body
5 member:

6 (1) are considered part of the duties prescribed by law for the
7 office of town legislative body member; and

8 (2) are not considered a second office.

9 A town legislative body member may not receive any additional
10 compensation for assuming the duties of the town clerk treasurer.

11 (c) The town legislative body may enter into an interlocal
12 agreement under IC 36-1-7 with the town clerk-treasurer and town
13 legislative body of another town in the state to assist the town
14 legislative body member selected under subsection (b) in
15 performing the duties of the clerk-treasurer's office. The
16 agreement may not last longer than the remainder of the vacant
17 clerk-treasurer's term and must meet the requirements of
18 IC 36-1-7.

19 (d) If an agreement cannot be reached under subsection (c), the
20 town legislative body may enter into a contract with a certified
21 public accountant to assist the town legislative body member
22 selected under subsection (b) in performing the duties of the
23 clerk-treasurer's office. The contract may not last longer than the
24 remainder of the vacant clerk-treasurer's term.



COMMITTEE REPORT

Madam President: The Senate Committee on Local Government, to which was referred Senate Bill No. 514, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is to SB 514 as introduced.)

HEAD, Chairperson

Committee Vote: Yeas 6, Nays 0

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